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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,065	02/27/2004	Moses A. Lipshaw	110651-022	7359
27111	7590	07/14/2005		
GORDON & REES LLP 101 WEST BROADWAY SUITE 1600 SAN DIEGO, CA 92101				
			EXAMINER DOSTER GREENE, DINNATIA JO	
			ART UNIT 3743	PAPER NUMBER

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,065

Applicant(s)

LIPSHAW, MOSES

Examiner

Dinnatia Doster-Greene

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detail Action</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Carpenter (U.S. Patent No. 6,338,723). Carpenter discloses in Figs. 15, 16, 18, 21 and 40, a central region, a plurality of bands extending from opposite lateral regions. The bands comprise a distal region, proximal and distal edges, inner and outer surfaces and a fastener. The fasteners secure the distal region to a band extending from the opposite lateral region or to the opposite lateral or central region so as to encircle the limb and to draw the first lateral region toward the second longitudinal edge to stretch the central region and thereby provide a tension in the garment that will compress the limb.

Claims 1-6, 8, 9, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Fowler. Regarding claims 1-4 and 6, Fowler discloses in Figs. 1 and 3, a central region, a plurality of bands (18) extending from opposite lateral regions. As shown in Fig. 3, the bands comprise a distal region, proximal and distal edges, inner and outer surfaces and a fastener. The fasteners (24) secures the distal region to a band extending from the opposite lateral region or

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to the opposite lateral or central region so as to encircle the limb and to draw the first lateral region toward the second longitudinal edge to stretch the central region and thereby provide a tension in the garment that will compress the limb (col. 2, lines 1-50).

Regarding claim 5, Fowler also discloses wrapping engagement which involves overlapping engagement at least a portion of the upper and lower surfaces of opposing bands. (Figs. 1 and 3, and Abstract)

Regarding claim 8, Fowler further discloses a set of opposing bands in which recesses (16) are formed.

Regarding claim 9, Fowler discloses a system for measuring compression wherein the outer surface bears indicia (Fig. 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 10, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fowler in view of Carpenter (U.S. Patent No. 6,338,723). Fowler discloses the claimed invention with the exception of a card and a pocket. However, Carpenter, which also relates to a compression device, discloses that it is known to include a card (Figs. 7-9) and a pocket (Fig. 34). Thus, it would have been obvious to one skilled in the art to incorporate the card and pocket of Carpenter into the compression device of Fowler for the purpose of accurately measuring the amount of compression of the body part and using the pocket to easily pull and position the compression device.

Conclusion

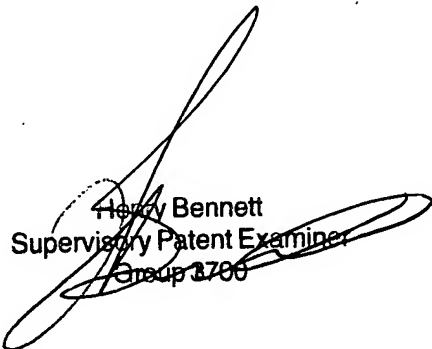
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinnatia Doster-Greene whose telephone number is 571-272-7143. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-271-7143.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ddg



Henry Bennett
Supervisory Patent Examiner
Group 1700